

Message Text

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FM AMEMBASSY ANKARA

TO SECSTATE WASHDC 8108

INFO AMCONSUL ISTANBUL

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E.O. 11652: N/A

TAGS: EAIR, TU

SUBJ: CIVAIR: RESTRICTIVE FOREIGN AIRLINE PRACTICES - TURKEY

REF: (A) STATE 23125 (B) ISTANBUL 493

1. REFTEL B DESCRIBES SEVERAL RESTRICTIVE OR DISCRIMINATORY PRACTICES AFFECTING US AIR OPERATIONS IN TURKEY IDENTIFIED BY CONGEN ISTANBUL IN CONSULTATION WITH PANAM MANAGER FOR TURKEY. THIS TELEGRAM CONTAINS EMBASSY'S COMMENTS ON POSSIBILITY OF ACTION TO SEEK RELIEF FROM THOSE PRACTICES AND TIMING OF SUCH ACTION.

2. AIRPORT HANDLING SERVICES: THERE ARE SEVERAL ASPECTS TO THIS ISSUE. RESTRICTIVE FEATURES ARE:

A. REQUIREMENT THAT GROUND HANDLING SERVICES BE PROVIDED BY LICENSED OPERATORS (OR CONTRACTORS) ON PAYMENT OF FEES FROM SCHEDULE ESTABLISHED BY TURKISH AUTHORITIES. FIRMS WHICH OFFER GROUND HANDLING SERVICES TO FOREIGN AIRLINES INCLUDE BOTH PRIVATELY OWNED AND GOVT OWNED FIRMS. AIRLINES MAY ALSO OBTAIN PERMIT OR APPROVAL FOR HANDLING ACTIVITIES. PANAM HAS OBTAINED PERMIT AND PROVIDES FULL GROUND HANDLING TO OWN AIRCRAFT AT ANKARA AND PARTIAL HANDLING AT ISTANBUL (WHERE IT ALSO USES SERVICES OF PRIVATE HANDLING COMPANY). EMBASSY UNDER-

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STANDS THAT SELF-HANDLING PERMIT ONCE ISSUED EXTENDS FOR

INDEFINITE OR FAIRLY LONG PERIOD. PANAM OFFICIALS BELIEVE THAT NEED TO OBTAIN PRIOR APPROVAL FOR SELF-HANDLING IS AN INFRINGEMENT OF ITS RIGHTS UNDER US-TURKISH BILATERAL AND INTERNATIONAL CIVIL AIR AGREEMENTS.

B. REQUIREMENT THAT STATE AIRPORT ADMINISTRATION (DHMI) BE PAID A FEE (OR TAX) FOR EACH GROUND HANDLING SERVICE, WHETHER PROVIDED BY A CONTRACTOR OR DONE BY AIRLINE ITSELF. (IN THE PAST, DHMI HAS NOT RPT NOT ALWAYS SOUGHT PAYMENT OF THIS FEE WHERE AIRLINE HAS PROVIDED FULL SELF-HANDLING SERVICES.) EMBASSY AND PANAM OFFICIALS IN INFORMAL DISCUSSIONS WITH OFFICIALS OF DHMI AND DIRECTOR GENERAL FOR CIVIL AVIATION HAVE OBJECTED TO ABOVE TWO REQUIREMENTS. GOT OFFICIALS HAVE STRONGLY REJECTED OUR OBJECTIONS. WITH RESPECT TO NEED FOR PRIOR APPROVAL OR PERMIT FOR SELF-HANDLING, THEY ASSERT (1) GOT IS FULLY JUSTIFIED IN CONTROLLING FIRMS OR INDIVIDUALS PROVIDING SERVICES ON TURKISH AIRPORTS TO ENSURE THAT ONLY REPUTABLE AND QUALIFIED FIRMS DO SO; (2) REQUIREMENT OF GOT PERMIT FOR FIRMS PROVIDING SUCH SERVICES IS NOT RPT NOT CONTRARY TO BILATERAL OR OTHER INTERNATIONAL AGREEMENTS; AND (3) FOREIGN AIRLINES CAN USE CONTRACTOR SERVICES OR ARE PERMITTED TO SELF-HANDLE (OR PARTIALLY SELF-HANDLE) IF THEY SO DESIRE. GOT OFFICIALS FURTHER ASSERT THAT FEE ON HANDLING OPERATIONS IS A LEGITIMATE CHARGE FOR USE OF AIRPORT SPACE AND FACILITIES BY GROUND HANDLING PERSONNEL AND EQUIPMENT.

BEYOND INFORMAL APPROACHES DESCRIBED ABOVE, EMBASSY AND PANAM HAVE CONSIDERED IT BEST TO DEFER CONSIDERATION OF MORE FORMAL PROTESTS TO GOT ON THESE TWO ISSUES PENDING DISPOSITION OF COURT CASE INVOLVING FEES PAID BY PANAM TO PRIVATE CONTRACTOR FOR PARTIAL GROUND HANDLING SERVICES. COURT CASE INVOLVES CONSIDERABLY LARGER FINANCIAL STAKE FOR PANAM AND LATTER HAS BEEN DEPENDING ON FAVORABLE DISPOSITION OF GOT CIVIL AVIATION AUTHORITIES TO ASSIST IT IN OBTAINING SATISFACTORY SETTLEMENT OF CASE. THEREFORE, IT HAS NOT RPT NOT SEEMED PRUDENT TO CHALLENGE GOT AUTHORITY ON THE OTHER ISSUES UNTIL COURT CASE IS RESOLVED. WHEN OPPORTUNE MOMENT IS REACHED EMBASSY WILL REVIEW ONCE MORE WITH PANAM DESIRABILITY OF MAKING MORE FORMAL PROTEST AGAINST EITHER OR BOTH (1) LICENSING REQUIREMENT OR (2) FEE REQUIREMENT. WE WILL ALSO CONSIDER EXTENT TO WHICH OTHER FOREIGN CARRIERS AND EMBASSIES MAY BE PREPARED TO TAKE LIMITED OFFICIAL USE

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PARALLEL ACTION. (WE HAVE HAD NO INDICATION THUS FAR THAT OTHERS ARE PREPARED TO DO SO.)

3. LIFT TAX ON INTERNATIONAL PASSENGERS. PAN AMERICAN HAS INITIATED COURT CASE CONTESTING PROVISIONS OF THIS TAX. OTHER FOREIGN CARRIERS HAVE INITIATED PARALLEL ACTION. LOWER COURT HAS DECIDED IN FAVOR OF AIRLINES BUT GOT HAS APPEALED DECISION TO HIGHER COURT. EMBASSY BELIEVES CONSIDERATION OF FURTHER

STEPS, IF ANY, SHOULD BE DEFERRED PENDING OUTCOME OF COURT CASE.

4. GOVERNMENT-ORDERED REDUCED FARES. TURKISH NATION AIR-LINE (THY) IS PERMITTED TO OFFER SUBSTANTIALLY REDUCED RATES TO CERTAIN CLASSES OF PASSENGERS (TURKISH MIGRANT WORKERS, STUDENTS, ETC.) ON ROUTES FROM TURKEY TO VARIOUS COUNTRIES IN WESTERN EUROPE. AIRLINES OF THE OTHER COUNTRIES INVOLVED, WHICH HAVE POOLING ARRANGEMENTS WITH THY, ARE ALSO PERMITTED TO APPLY REDUCED RATES. (THESE FOREIGN CARRIERS THEREFORE ARE UNLIKELY TO TAKE PARALLEL ACTION WITH US IN PROTESTING DISCRIMINATORY ASPECT OF THESE REDUCED RATES.) EMBASSY WOULD BE PREPARED, FOLLOWING FURTHER CONSULTATION WITH PANAM TO SELECT APPROPRIATE OCCASION, TO MAKE REPRESENTATIONS TO GOT REGARDING THESE DISCRIMINATORY RATES. PRESUMABLY SIMILAR ACTION BY US EMBASSIES IN ORHTER COUNTRIES INVOLVED WOULD ALSO BE REQUIRED. IN CONSIDERING TIMING OF ACTION HERE WE WOULD ALSO WISH TO TAKE INTO ACCOUNT (A) DEVELOPMENTS IN US-TURKISH RELATIONS AS CONSEQUENCE OF RECENT CUT-OFF OF US MILITARY ASSISTANCE AND (B) IMPLICATIONS SUCH ACTION ON OUR PART WOULD HAVE ON GOT WISH TO REPLACE OUR CURRENT BILATERAL AIR AGREEMENT.

5. ACTION REQUESTED: EMBASSY WOULD APPRECIATE DEPARTMENT'S GUIDANCE REGARDING ANY PROVISIONS OF IATA REGULATIONS OR OTHER INTERNATIONAL AGREEMENTS WHICH MAY PERMIT (OR WHICH MAY PROHIBIT) APPLICATION OF REDUCED RATES BETWEEN TWO POINTS WITH RESPECT TO CERTAIN CATEGORIES OF THIRD AND FOURTH FREEDOM PASSENGERS BUT WHICH ARE NOT RPT NOT PERMITTED FOR FIFTH FREEDOM PASSENGERS BETWEEN THOSE POINTS. WOULD OUR EFFORTS TO END DISCRIMINATION IN SUCH ARRANGEMENTS BE AIMED AT PROHIBITION ON OFFERING OF REDUCED RATES IN SUCH CIRCUMSTANCES BY ANY CARRIER OR ON OBTAINING APPROVAL FROM AUTHORITIES IN TURKEY AND OTHER COUNTRIES INVOLVED FOR US CARRIER TO OFFER SIMILAR REDUCED LIMITED OFFICIAL USE

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RATES BETWEEN SAME POINTS?
BERGUS

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